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Paper No. 5

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**OFFICE OF PETITIONS  
A/C PATENTS**

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In re Application of :  
Christopher J. Evans, et al :  
Application No. 08/403,260 : NOTICE OF ABANDONMENT  
Filed: March 13, 1995 :  
Attorney Docket No. 2000-0526.21 :

This is notice that the instant application stands abandoned for the failure to file a complete response to a June 12, 1995 Notice to File Missing Parts of Application.

The instant application will be retained by the Office of the Deputy Assistant Commissioner for Patent Policy and Projects, Special Program Law Office, Crystal Park 1, Room 520 for a period of TWO MONTHS from the mail date of the instant Notice to await any petition under 37 CFR 1.137.

Brief Review of Facts

The instant application was filed on March 13, 1995 pursuant to 37 CFR 1.53(b) without the filing fees, without an executed oath or declaration under 37 CFR 1.63 and without a CRF copy of the Sequence Listing, a paper copy of the Sequence Listing accompanied by an amendment directing its entry into the specification and a statement that the content of the CRF and paper copies are the same. The application transmittal letter named as the inventors: Christopher J. Evans and Duane E. Keith.

The Initial Patent Examination Division of the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Application on June 12, 1995, requiring the filing fees, an oath or declaration in compliance with § 1.63, CRF and paper copies of the Sequence Listing accompanied by an amendment directing entry of the Sequence Listing into the specification and a statement that the content of the CRF and paper copies are the same, and a surcharge for their late submission.

Applicants on August 18, 1995 submitted (without a petition or fee for an extension of time) in response to the Notice to File

Missing Parts of Application, inter alia, the filing fees, the surcharge and a § 1.63 declaration executed by Christopher J. Evans, Duane E. Keith, Robert H. Edwards and Daniel Kaufman, a petition and fee under 37 CFR 1.48(a) to correct the inventorship accompanied by a verified statement of facts signed by the originally named inventors and a written consent of assignee, CRF and paper copies of the Sequence Listing accompanied by a statement that the content of the CRF and paper copies are the same and an amendment directing entry of the Sequence Listing into the specification.

#### Notice of Abandonment

Applicants were given a period of one month from the date of the June 12, 1995 Notice to File Missing Parts of Application, said period expiring on July 12, 1995. As the papers filed August 18, 1995, with a certificate of mailing date of August 14, 1995, in response to the Notice to File Missing Parts of Application were not accompanied by a petition for a one-month extension of time under 37 CFR 1.136(a), the August 18, 1995 response was not timely.

Further, the August 18, 1995 response to the Notice to File Missing Parts was incomplete in that the written consent of assignee does not comply with 37 CFR 3.73(b) Establishing right of assignee to prosecute, which requires documentary evidence of the chain of title (the August 18, 1995 Assignment to be recorded, currently of record in the file), a statement specifying that the evidentiary document has been reviewed and a certification that title is in the purported assignee. MPEP 324. A copy of an appropriate § 3.73(b) certification is attached.

Accordingly, the application stands abandoned as the maximum period for response under 37 CFR 1.136(a) to the Notice to File Missing Parts of Application expired midnight November 13, 1995.

#### Revival Under 37 CFR 1.137

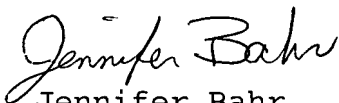
Applicants may have a possible remedy under 37 CFR 1.137(a) or (b), provided that the application was unintentionally or unavoidably abandoned. Any petition under §1.137 should be filed within TWO MONTHS from the mail date of this Notice (note, MPEP 711.04(c)) and be addressed to Box DAC, Patent and Trademark Office, Washington, DC 20231.

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after applicants become aware of the abandonment and such petition must be accompanied (1) by an adequate showing verified under oath or declaration (e.g., 37 CFR 1.68), of the cause of unavoidable delay, (2) by the required response to the above identified Office letter (petition and \$110.00 fee for a one month extension of time and a § 3.73(b) certification) and

(3) by the petition fee set forth in 37 CFR 1.17(1) (currently \$110.00).

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of UNINTENTIONAL DELAY must be submitted within one year of the July 13, 1995 date of abandonment of the application and be accompanied (1) by a verified statement (e.g., 37 CFR 1.68) that the abandonment was unintentional, (2) by the required response to the above identified Office letter (§ 3.73(b) certification), and (3) by the petition fee set forth in 37 CFR 1.17(m) (currently \$1,250.00).

Any questions concerning petitions to revive should be directed to Petitions Information, (703) 308-1066.



Jennifer Bahr  
Primary Examiner/Detailee  
Office of Petitions  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects

Attachment: § 3.73(b) certificate